

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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INDIANAPOLIS, INDIANA 46204-2764

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IN RE AN EMERGENCY COMPLAINT )  
AGAINST NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY ("NIPSCO") BY )  
THE COUNTY OF LAPORTE INDIANA )  
AND THE CITY OF MICHIGAN CITY )  
INDIANA RELATING TO THE PRACTICES )  
AND ACTS AFFECTING OR RELATING )  
TO THE SERVICE OF NIPSCO AS BEING )  
UNSAFE, UNREASONABLE AND )  
INSUFFICIENT PURSUANT TO IC 8-1-2-54, )  
AND REQUEST FOR COMMISSION )  
INVESTIGATION PURSUANT TO IC 8-1-2-58 )  
AND REQUEST FOR AN INTERIM STATUS )  
QUO ORDER )

FILED

JUL 22 2003

INDIANA UTILITY  
REGULATORY COMMISSION

CAUSE NO. 42194

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") made the following entry in this Cause:

On July 18, 2003, Northern Indiana Public Service Company ("NIPSCO") filed a *Motion for Leave to File Supplemental Testimony* ("Motion") in this Cause. In its Motion, NIPSCO indicates that on June 6, 2003, it filed settlement agreements ("Settlement Agreements") it had reached with the City of LaPorte, City of Michigan City and the City of Plymouth. In its Motion, NIPSCO states that it believes that it would be appropriate, and consistent with the Commission's practice, to have the settling parties file supplemental testimony in support of settlement agreements in an effort to demonstrate that the agreements are in the public interest.

NIPSCO goes on to indicate in its Motion that it has attempted to contact counsel for all parties in this proceeding regarding the subject matter of its Motion and that the Cities of LaPorte, Plymouth and Michigan City, Office of Utility Consumer Counselor and Lake County do not object to the Motion. The United Steelworkers of America indicated that they object to the Motion. NIPSCO stated in its Motion that its Counsel is unable to make any representation regarding the position of LaPorte County or the Hammond City Council. NIPSCO proposes to file supplemental testimony in support of the Settlement Agreements by no later than 9:30 a.m., EDT, July 23, 2003.<sup>1</sup>

<sup>1</sup> At the conclusion of its Motion, NIPSCO indicates that it wishes to file its supplemental testimony by Noon on July 23, 2003. For purposes of consideration of the Motion, the Presiding Officers have only considered NIPSCO's initial proposal to prefile its testimony by 9:30 a.m., EDT, July 23, 2003.

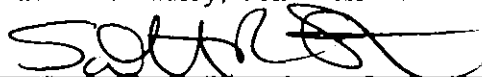
On July 21, 2003, LaPorte County filed its *Response of Petitioner LaPorte County to NIPSCO Motion for Leave to File Supplemental Testimony* ("Response"). In its Response, LaPorte County, while not objecting to NIPSCO's Motion, questions the timing of the Motion and correctly raises the issue as to why the request to file testimony in support of the Settlement Agreements was not filed sooner. The relief requested in NIPSCO's Motion, filed less than a week prior to the start of the Evidentiary Hearing, and without explanation as to why the request was not filed sooner, leaves almost no time (24 hours) for the parties to review, much less respond to the additional testimony that the company proposes to submit. LaPorte County, while not formally *objecting* to NIPSCO's Motion requests that, if the Motion is granted, it not delay the Evidentiary Hearing. However, LaPorte County goes on to request that it be provided a *normal and customary time period* in which to respond to testimony filed in support of the Settlement Agreements. Implicit in LaPorte County's Response is the understanding that such a *normal and customary time period* to respond is greater than twenty-four (24) hours.

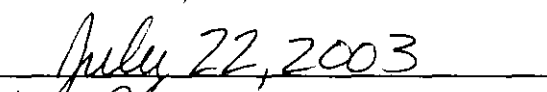
The Motion and Response filed in this matter have placed the Presiding Officers in a "Catch 22" with respect to the Commission's ability to proceed with the Evidentiary Hearing scheduled for July 24-25, 2003. In order to provide the opportunity for NIPSCO to prefile testimony in support of the Settlement Agreements, which is a preferred practice before this Commission, and to provide the remaining non-settling parties a sufficient opportunity to review the additional testimony and prepare any response, it will be necessary to continue the Evidentiary Hearing, which none of the Parties claim that they want to happen. However, lacking the ability to roll back the clock, this would be the *de facto* result if we were to favorably rule on the Motion and Response.

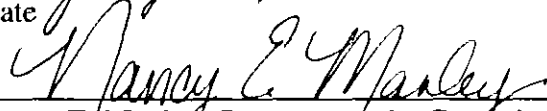
Based on the foregoing discussion, and upon our review of NIPSCO's Motion and the Response filed by LaPorte County, the Presiding Officers hereby GRANT each of the Motions. NIPSCO shall prefile testimony in support of the Settlement Agreements on or before July 23, 2003. The non-settling parties may prefile testimony in response to testimony submitted in support of the Settlement Agreement and should do so on or before August 8, 2003. NIPSCO may prefile a Reply to any responses and should do so on or before August 15, 2003. In order to grant the relief requested in the Motion and Response, it is necessary to continue the Evidentiary Hearing in this matter. The Evidentiary Hearing is hereby continued until August 18-19, 2003, beginning each day at 9:30 a.m. in Room TC-10 of the Indiana Government Center South, Indianapolis, Indiana.

**IT IS SO ORDERED.**

  
David W. Hadley, Commissioner

  
Scott R. Storms, Chief Administrative Law Judge

  
Date July 22, 2003

  
Nancy E. Manley, Secretary to the Commission